

# ORIGINAL

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RECEIVED  
JUL 22 1996  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

July 22, 1996

### **BY HAND DELIVERY**

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Room 222  
1919 M Street, N.W.  
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

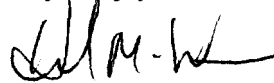
Re: NEW - Channel 66  
Broken Arrow, Oklahoma

Dear Mr. Caton:

Transmitted herewith are an original and four copies of a Petition for Rule Making to allot Channel 66 to Broken Arrow, Oklahoma as its first local transmission television service. A contingent application for construction permit for a new television station to operate on Channel 66 at Broken Arrow is being transmitted simultaneously under separate cover. A request for waiver of Sections 73.607 and 73.3517 of the Commission's rules is included in the application.

Should any questions arise concerning this matter, please communicate with the undersigned.

Very truly yours,



Howard M. Weiss

Counsel for Fant Broadcast Development, L.L.C.

Enclosures

No. of Copies rec'd OT 4  
List ABCDE  
MMB

BEFORE THE  
**Federal Communications Commission**

WASHINGTON, D.C. 20554

**RECEIVED**  
**JUL 22 1996**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.606(b) of the )  
Commission's Rules, TV Table of Allotments, )  
to allot Channel 66 to Broken Arrow, Oklahoma )

MM Docket No. \_\_\_\_\_  
RM No. \_\_\_\_\_

To: Chief, Allocations Branch

**PETITION FOR RULEMAKING**

Fant Broadcast Development, L.L.C. ("Fant"), by counsel, and pursuant to Section 1.401 of the Commission's rules, hereby requests the Commission to institute a rulemaking proceeding for the purpose of amending the TV Table of Allotments to allot Channel 66 to Broken Arrow, Oklahoma, as that community's first local television service. Fant proposes to amend Section 73.606(b) of the Commission's rules as follows:

<u>City</u>	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
Broken Arrow, Oklahoma	- - -	66

No change in the existing allotments is requested. In support of this request, the following is stated:

The city of Broken Arrow, Oklahoma, is an incorporated community with a 1990 U.S. Census population of 58,043. As of January 1, 1995, its population was estimated to be 66,400.<sup>1</sup> Broken Arrow is a principal business center, with its own post office and four zip codes.

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<sup>1</sup> Source: Rand McNally Commercial Atlas & Marketing Guide, pp. 137, 473 (127th ed.) (1996), citing Sales and Marketing Management "1995 Survey of Buying Power."

As demonstrated in the attached engineering exhibit, the coordinates of the proposed site meet the minimum distance separation requirements with respect to all known licenses, construction permits, pending applications, and pending rulemaking proceedings.


As stated above, the allotment of Channel 66 will provide Broken Arrow with a first local television service, which will promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of television broadcast stations among the various States and communities. 47 U.S.C. §307(b). See National Broadcasting Co. v. U.S., 319 U.S. 190, 217 (1943) (describing goal of Communications Act to "secure the maximum benefits of radio to all the people of the United States"); FCC v. Allentown Broadcasting Co., 349 U.S. 358, 359-62 (1955) (describing goal of Section 307(b) to "secure local means of expression"). In addition, the proposed allotment will promote the second television allotment priority established in the Sixth Report and Order in Docket Nos. 8736 and 8975, 41 FCC 148, 167 (1952), of providing each community with at least one television broadcast station. The proposed allotment also will permit an additional network to serve the Tulsa television market. Therefore, the allotment will serve the public interest.

Contemporaneously herewith, the petitioner is filing an application for a construction permit for the new facility contingent upon the grant of the proposed allotment. In the event its application is granted, the petitioner will promptly construct the new facility.

WHEREFORE, in light of the foregoing, Fant Broadcast Development, L.L.C. respectfully requests the Commission to GRANT this petition for rulemaking, AMEND the TV Table of Allotments, and ALLOT Channel 66 to Broken Arrow, Oklahoma, as that community's first local television service.

Respectfully submitted,

FANT BROADCAST DEVELOPMENT, L.L.C.

By: 

Vincent J. Curtis  
Andrew S. Kersting

Its Counsel

Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17th Street, 11th Floor  
Rosslyn, Virginia 22209  
(703/812-0400)

July 22, 1996

**WES, INC.**  
5925 CROMO DR.  
EL PASO, TX 79912

915-581-0306

**ENGINEERING EXHIBIT RM:**

**For Broken Arrow, OK  
CH 66**

**JUNE 14, 1996**

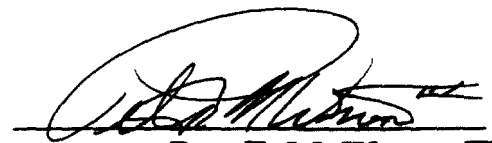
**ENGINEERING STATEMENT IN SUPPORT OF A  
PETITION FOR RULE MAKING  
TO AMEND  
THE TV TABLE OF ASSIGNMENTS**

**WES, INC.**

**DECLARATION**

**I, Pete E. M. Warren III, declare and state that I am a Certified Engineer, Class I, Senior, with Master Endorsement radiating and non-radiating, by The National Association of Radio and Telecommunications Engineers, Inc., and my qualifications are a matter of record with the Federal Communications Commission, and that I am an engineer in the firm of WES, Inc., and that the firm has been retained to prepare an engineering statement in support of a Petition to Amend the TV Table of Assignments.**

**All facts contained herein are true to my knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. All Exhibits were prepared by me or under my supervision. I declare under penalty of perjury that the foregoing is true and correct.**

  
**Pete E. M. Warren III**

**Executed on the 14th day of June, 1996**

## **Narrative Statement**

### **I. General**

The purpose of this engineering statement is to support a request that the TV Table of Assignments be amended to add Ch. 66 at Broken Arrow, OK. The proposed channel has no short-spacing, as can be seen by the channel spacing study. A contingent application will be submitted.

It should be noted that the area in question is not within 320 kilometers (200 miles) of a US Border and, therefore, foreign concurrence is not required.

### **II. ENGINEERING DISCUSSION**

#### **A. Proposed site:**

We propose a site located at the following coordinates:

Latitude: 35 50 00

Longitude: 95 30 00

The allocation can be made within a wide area.

#### **B. Channel Allocation Study**

Exhibit 1 is a Channel Allocation Study of channel 66. The study indicates the required separation in kilometers to all known Licenses, Construction Permits, Open Allocations, pending Allocations, and pending Rule Makings.

Exhibit 2 is a map of the resulting arcs indicating minimum separation and a cross-hatched zone showing area to locate.

**C. Public Interest Showing:**

1. This would be the first allotment to Broken Arrow, OK. The petitioner believes that the requested channel addition is in the Public Interest and, therefore, should be granted by the Commission.
2. An additional station in the area would allow for carriage of a fifth network.

**III. SUMMARY**

Petitioner request that the TV Table of Assignments be amended as follows:

<b>City</b>	<b>Present</b>	<b>Proposed</b>
Broken Arrow, OK	None	660

June 14, 1996

  
Pete E.M. Warren III

EXHIBIT #1

CHANNEL ALLOCATION STUDY

\*\*\*\*\*

TV CHANNEL SPACING STUDY

\*\*\*\*\*

by WES Inc.

Job title: BROKEN ARROW OK

Latitude: 35 50 0

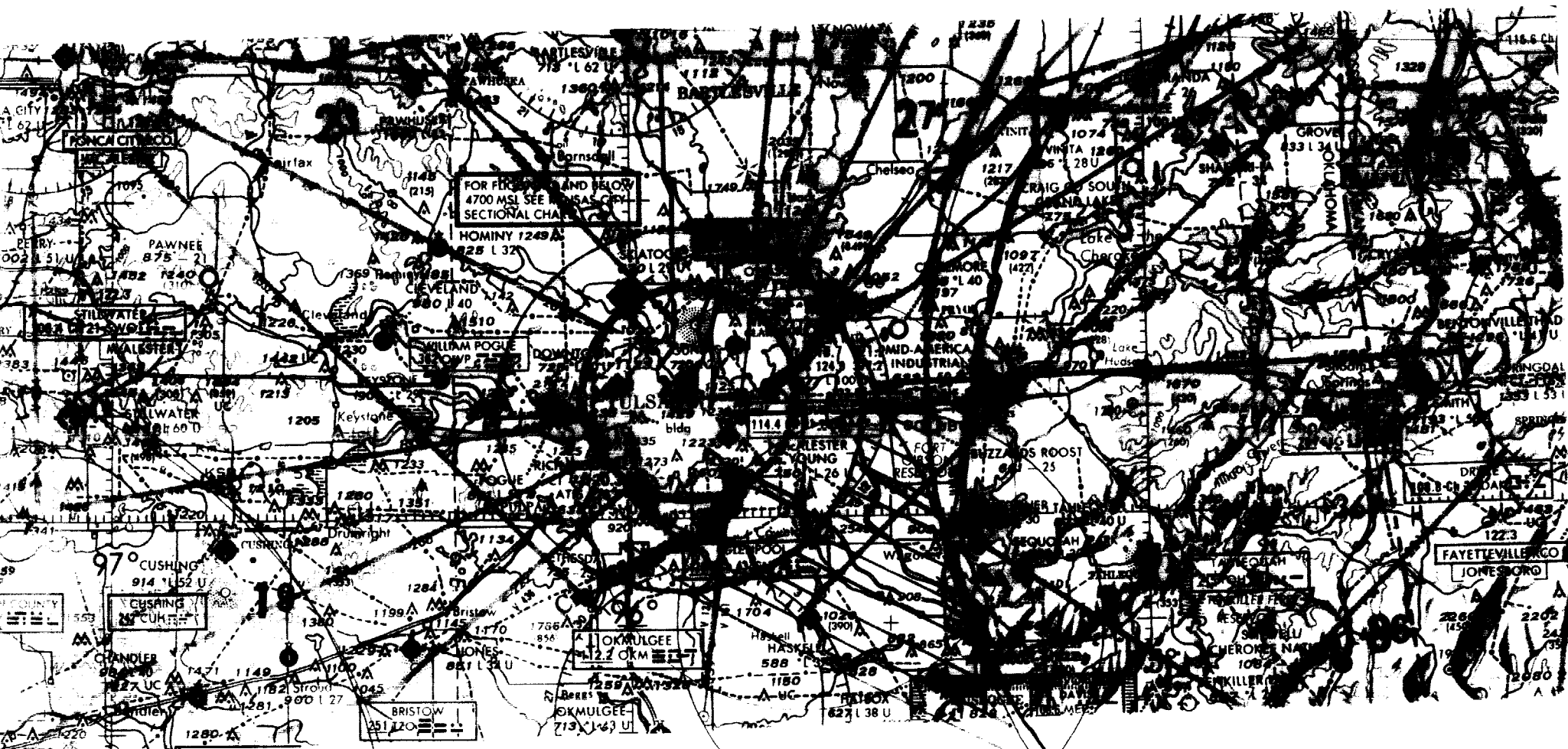
Channel: 66

Longitude: 95 30 0

Database file name: c:\tvsrc\tv960524.edx

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
51-	KFAA	5149	ROGERS	AR	2	L	71.4	132.6	119.9	12.7
63o	ALLOTM	5418	TULSA	OK	2		314.8	51.7	31.4	20.3

\*\*\*\*\* End of channel 66 study \*\*\*\*\*



KILOMETERS	10	20	30	40	50	60
NAUTICAL MILES	10	20	30	40	50	60
STATUTE MILES	10	20	30	40	50	60

LANDMB 66  
280.5 Km

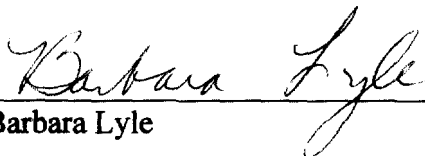
KFAA 51  
119.9 Km

Exhibit 2  
CG-80 Broken Arrow, OK ch 66  
ch 66

**CERTIFICATE OF SERVICE**

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 22nd day of July, 1996, a copy of the foregoing "Petition for Rulemaking" was hand delivered to the following

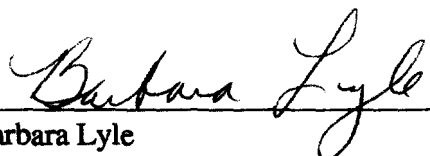
Mr. Roy J. Stewart  
Chief, Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 314  
Washington, DC 20554

  
\_\_\_\_\_  
Barbara Lyle

**CERTIFICATE OF SERVICE**

I, Barbara Lyle, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that on this 22nd day of July, 1996, a copy of the foregoing "Petition for Rulemaking" was hand delivered to the following

Mr. Roy J. Stewart  
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\_\_\_\_\_  
Barbara Lyle